

PATENT APPLICATION
Docket No: 13914.880

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
)
 Dalebout, et al.)
)
 Serial No.: 10/647,729)
)
 Filed: August 25, 2003)
)
 For: EXERCISE DEVICE WITH CENTRALLY MOUNTED)
 RESISTANCE ROD AND AUTOMATIC WEIGHT)
 SELECTOR APPARATUS)

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that the following documents are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop: IDS – NO FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 17 day of December, 2003:

- Transmittal for Information Disclosure Statement (3 pgs.) (in duplicate)
- Information Disclosure Statement (2 pgs.)
- Form PTO-1449 (4 pgs.)
- Copies of 14 references
- Postcard

Respectfully submitted,

Linda Clark, Assistant to
David B. Dellenbach
Attorney for Applicant
Registration No. 39,166
Customer No. 022913

WORKMAN NYDEGGER

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION

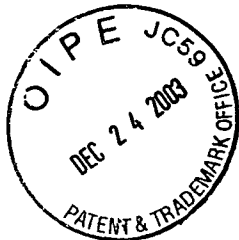
1000 EAGLE GATE TOWER

60 EAST SOUTH TEMPLE

SALT LAKE CITY, UTAH 84111

TELEPHONE (801) 533-9800

FACSIMILE (801) 328-1707



RICK D. NYDEGGER
BRENT P. LORIMER
THOMAS R. VUKSINICK
LARRY R. LAYCOCK
JONATHAN W. RICHARDS
DAVID R. WRIGHT
JOHN C. STRINGHAM
JOHN M. GUYNN
CHARLES L. ROBERTS
DANA L. TANGREN
ERIC L. MASCHOFF
CHARLES J. VEVERKA
ROBYN L. PHILLIPS
RICHARD C. GILMORE†
STERLING A. BRENNAN†
GREGORY M. TAYLOR
DAVID B. DELLENBACH
R. BURNS ISRAELSEN
DAVID R. TODD
L. DAVID GRIFFIN
ADRIAN J. LEE
FRASER D. ROY
CARL T. REED

R. PARRISH FREEMAN, JR.
PETER F. MALEN, JR.
L. REX SEARS, PH.D.
ERIC M. KAMERATH
ROBERT E. AYCOCK
JENS C. JENKINS
KEVIN W. STINGER
WILLIAM J. ATHAY
MICHAEL B. DODD
WILLIAM R. RICHTER
RYAN D. BENSON
SARA D. JONES
TIGER KELLER
JANNA L. JENSEN
MATTHEW D. TODD
J. LAVAR OLDHAM
MICHAEL J. FRODSHAM
JOSEPH L. KRUPA
BRETT A. HANSEN
BRETT I. JOHNSON
MATTHEW A. BARLOW

† ADMITTED ONLY IN CALIFORNIA

PATENT APPLICATION

Docket No: 13914.880

PATENTS

TRADEMARKS

COPYRIGHTS

TRADE SECRETS

UNFAIR COMPETITION

LICENSING

COMPLEX LITIGATION

MAILING ADDRESS:

P.O. BOX 45862

SALT LAKE CITY, UT 84145

INTERNET

HOME PAGE: <http://www.wnpatent.com>

GENERAL E-MAIL: info@wnpatent.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Dalebout, et al.

Serial No.:

10/647,729

Filed:

August 25, 2003

For:

EXERCISE DEVICE WITH CENTRALLY MOUNTED
RESISTANCE ROD AND AUTOMATIC WEIGHT
SELECTOR APPARATUS

TRANSMITTAL FOR INFORMATION DISCLOSURE STATEMENT

Mail Stop: IDS – NO FEE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing and pursuant to 37 C.F.R. § 1.97 is an Information Disclosure Statement, which includes the following statements, if any, required variously by 37 C.F.R. § 1.98:

____ Statement of relevance of selected cited references not in the English language which are not translated.

____ Statement that selected cited references are substantially cumulative of an enclosed or previously submitted reference.

____ Statement that selected cited references were previously cited by or submitted to the United States Patent and Trademark Office in a prior application which is relied upon for an earlier filing date under 35 U.S.C. § 120.

A. Additional Materials Required Due to Content of Information Disclosure Statement

Transmitted are the following documents in addition to the Information Disclosure Statement as required variously under 37 C.F.R. § 1.98:

X Form PTO-1449 listing 45 references submitted for consideration.

X Copies of each of the required 14 references listed on the Form PTO-1449.

____ English translations as indicated on the Form PTO-1449 of the references which are not in the English language. .

____ Copies of the following documents from the prosecution of a previous, related application:

____ Form PTO-1449 AND INFORMATION DISCLOSURE STATEMENT; and

____ Form PTO-892

B. Additional Materials Required Due to Timing of Filing of Information Disclosure Statement

The transmitted Information Disclosure Statement is being filed within one (1) of the following four (4) time periods:

I. X Prior to the later of either three (3) months following the filing date or the mailing of a first Office Action. Accordingly, no materials other than those listed above are enclosed.

II. ____ Following the latter of either three (3) months following the filing date or the mailing of a first Office Action, but before the mailing of a final Office Action or a Notice of Allowance. Accordingly, to secure consideration thereof, one (1) of the following is also enclosed:

____ Promptness Certification; or

____ Credit Card Form PTO 2038 in the amount of \$180.00 constituting the submission fee set forth in 37 C.F.R. § 1.17(p).

III. ____ After the mailing of a Notice of Allowance, but before payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:

____ Promptness Certificate;

___ Petition for Consideration; and

___ Check No. in the amount of \$ _____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

IV. ___ After payment of the Issue Fee. Accordingly, in order to secure consideration thereof, each of the following are also enclosed:

___ Petition to Withdraw from Issue; and

___ Check No. _____ in the amount of \$ _____ constituting the petition fee set forth in 37 C.F.R. § 1.17(i)(1).

C. Fees

The Commissioner is hereby authorized to charge payment of or any deficiency in the following fees associated with this communication, or to credit any overpayment thereof, to Deposit Account No. 23-3178. A duplicate copy of this letter is enclosed.

X Any fee required in relation to filing of this letter or any documents transmitted therewith.

___ The submission fee set forth in 37 C.F.R. § 1.17(p) in the event that 37 C.F.R. § 1.97(c) applies and the Examiner is not satisfied that any Promptness Certificate submitted meets the requirements of 37 C.F.R. § 1.97(e).

___ The submission fee set forth in 37 C.F.R. § 1.17(p).

___ The petition fee set forth in 37 C.F.R. § 1.17(i)(1).

Dated this 17 day of December, 2003.

Respectfully submitted,



David B. Dellenbach
Attorney for Applicant
Registration No. 39,166
Customer No. 022913



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Dalebout, et al.

Serial No.: 10/647,729

Filed: August 25, 2003

For: EXERCISE DEVICE WITH CENTRALLY MOUNTED
RESISTANCE ROD AND AUTOMATIC WEIGHT
SELECTOR APPARATUS

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.97

Mail Stop: IDS – NO FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form PTO-1449 which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). While no representation is made that any of these references may be "prior art" within the meaning of that term under 35 U.S.C. §§ 102 or 103, the enclosed list of references is disclosed so as to fully comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the enclosed art is the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

In accordance with 37 C.F.R. §§ 1.97 and 1.98, a copy of each of the required references or relevant portion thereof is also enclosed.

Dated this 17 day of December, 2003

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'DBD', with a horizontal line extending to the right.

David B. Dellenbach
Attorney for Applicant
Registration No. 39,166
Customer No. 022913

DBD/lrc
LC0000000359V001

Applicant:

Dalebout et al.

Serial No.:

10/647,729

Filing Date:

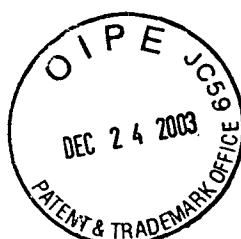
August 25, 2003

For:

EXERCISE DEVICE WITH CENTRALLY MOUNTED RESISTANCE ROD

Att'y Docket No.: 13914.880

Group No.

INFORMATION DISCLOSURE CITATIONS MADE BY APPLICANTU.S. Patent Documents

Examiner Initial*	Document Number	Issue Date	Name
/F.C.M./	1	06/26/1877	Marshall
—	2	05/27/1890	Holmes
—	3	09/13/1898	Marshall
—	4	03/22/1904	Grabner
—	5	12/19/1905	Grabner
—	6	03/09/1926	Walker
—	7	05/05/1926	Wendelken
—	8	10/07/1958	Blickman
—	9	03/18/1965	Gaul
—	10	03/02/1971	Foster
—	11	04/25/1972	Thiede
—	12	05/23/1972	Grellier et al.
—	13	01/02/1973	Potgieter
—	14	03/19/1974	Powell et al.
—	15	09/21/1976	Ryan

Examiner: /Fenn C. Mathew/

Date Considered: 08/12/2008

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Applicant:
Serial No.:
Filing Date:
For:

Dalebout et al.
10/647,729
August 25, 2003

EXERCISE DEVICE WITH A CENTRALLY MOUNTED RESISTANCE ROD

Att'y Docket No.: 13914.880
Group No.



/F.C.M./	16	4,063,727	12/20/1977	Hall
	17	4,494,662	01/22/1985	Clymer
	18	4,620,704	11/04/1986	Shifferaw
	19	4,725,057	02/16/1988	Shifferaw
	20	4,756,527	07/12/1988	Ledbetter
	21	4,790,596	12/13/1988	Shifferaw
	22	5,039,088	08/13/1991	Shifferaw
	23	5,123,886	06/23/1992	Cook
	24	6,003,294	12/21/1999	Fitzgerald et al.
	25	6,011,134	01/04/2000	Marks et al.
	26	6,172,178 B1	01/09/2001	Koning et al.
	27	6,217,495 B1	04/17/2001	Yalch
	28	6,238,322 B1	05/29/2001	Hsu
	29	6,238,323 B1	05/29/2001	Simonson
	30	6,319,179 B1	11/20/2001	Hinds
	31	6,335,100 B1	01/01/2002	Tominaga et al.

Examiner: /Fenn C. Mathew/

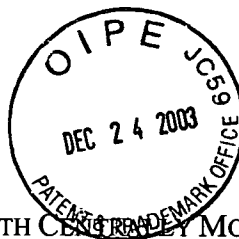
Date Considered: 08/12/2008

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Applicant:
Serial No.:
Filing Date:
For:

Dalebout et al.
10/647,729
August 25, 2003

EXERCISE DEVICE WITH CENTRALEY MOUNTED RESISTANCE ROD



Att'y Docket No.: 13914.880
Group No.

Other Documents

(including author, title, pertinent pages, etc.)

Examiner
Initial*

- /F.C.M./
- | | |
|---|---|
| <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> | <p>MegaFitness.com, <i>Band Flex Home Gym</i>, printed August 14, 2002, Copyright 1997-2002, 5 pgs.</p> <p>LeonardFitness.com, <i>Bandflex Home Gym</i>, printed August 14, 2002, Copyright 1999-2001, 4 pgs.</p> <p>LeonardFitness.com, <i>Bowflex® Power Pro</i>, printed August 20, 2002, Copyright 1999-2001, 3 pgs.</p> <p>Website, www.bowflex.com, printed September 17, 2002, 96 pgs.</p> <p>Bowflex® Power Pro®, <i>Owner's Manual & Fitness Guide</i>, Copyright 2001, 80 pgs.</p> <p>Bowflex® Power Pro®, <i>Assembly Manual</i>, Copyright 2000, 28 pgs.</p> <p><i>Lat Pulldown Attachment Assembly Instructions</i>, available, on information and belief, at least as early as March, 2002, 10 pgs.</p> <p>Reviewboard.com, <i>Bowflex Power Pro XTLU</i>, printed August 20, 2002, 2 pgs.</p> <p>NickPicks.com, <i>As Seen on TV Bowflex</i>, printed August 20, 2002, 3 pgs.</p> <p>2002 Project Abstract (including "University of Wyoming Zero Gravity Construction"), printed August 20, 2002, 9 pgs.</p> <p>Bowflex Trainer, <i>Power Rod Resistance</i>, printed August 20, 2002, 1 pg.</p> <p>Battle for the Best Pecs, printed August 20, 2002, 3 pgs.</p> <p>Soloflex.com, <i>Soloflex®, Compound Barbell</i>, printed September 17, 2002, 1 pg.</p> <p>Bowflex.com, <i>Get Results with a Blowlfex Home Gym</i>, printed September 17, 2002, Copyright 2002, 2 pgs.</p> |
|---|---|

Examiner: /Fenn C. Mathew/

Date Considered: 08/12/2008

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Form PTO-1449

Applicant:

Dalebout et al.

Serial No.:

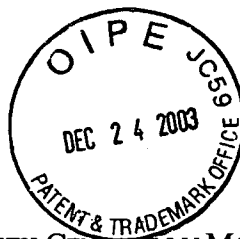
10/647,729

Filing Date:

August 25, 2003

For:

EXERCISE DEVICE WITH CENTRALLY MOUNTED RESISTANCE ROD



Sheet 4 of 4

Att'y Docket No.: 13914.880

Group No.

References Cited by Applicants

While the filing of Information Disclosure Statements is voluntary, the procedure is governed by the guidelines of Section 609 of the Manual of Patent Examining Procedure and 37 C.F.R. §§ 1.97 and 1.98. To be considered a proper Information Disclosure Statement, Form PTO-1449 shall be accompanied by a copy of each listed patent or publication or other item of information and a translation of the pertinent portions of foreign documents (if an existing translation is readily available to the applicant), an explanation of relevance of each reference not in the English language, and should be submitted in a timely manner as set out in MPEP Sec. 609.

Examiners will consider all citations submitted in conformance with 37 C.F.R. § 1.98 and MPEP Sec. 609 and place their initials adjacent the citations in the spaces provided on this form. Examiners will also initial citations not in conformance with the guidelines which may have been considered. A reference may be considered by the Examiner for any reason whether or not the citation is in full conformance with the guidelines. A line will be drawn through a citation if it is not in conformance with the guidelines AND has not been considered. A copy of the submitted form, as reviewed by the Examiner, will be returned to the applicant with the next communication. The original of the form will be entered into the application file.

Each citation initialed by the Examiner will be printed on the issued patent in the same manner as references cited by the Examiner on Form PTO-892.

The reference designations "A1," "A2," etc. (referring to Applicant's reference 1, Applicant's reference 2, etc.) will be used by the Examiner in the same manner as Examiner's reference designations "A," "B," "C," etc. on Office Action Form PTO-1142.

LC0000000364V001

Examiner:

/Fenn C. Mathew/

Date Considered:

08/12/2008

***EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609, draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.